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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,208	09/26/2003	Cristiana Soldani	88265-6808	4485

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EXAMINER
KUHNS, SARAH LOUISE
ART UNIT
PAPER NUMBER

1761

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/670,208

Applicant(s)

SOLDANI, CRISTIANA

Examiner

Sarah L Kuhns

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 1, 3-7, and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Mochizuki et al., 4,000,321.

In regard to claim 1, Mochizuki discloses a chewing gum-containing tablet comprising a compressed mixture of gum base and a tablet base (sugar) in particulate form, the average particle size of the gum base and tablet base being 44 microns (325 mesh). It is inherent that if the tablet is made of compressed powder, it will crumble into a powder again when it is masticated, until enough saliva is absorbed by the particles to cause them to form a wad of chewing gum (example 1).

In regard to claim 3, Mochizuki discloses the compressing of a mixture of gum base and a tablet base material in powder form (column 3, lines 49-57).

In regard to claim 4, Mochizuki discloses the gum base being a plasticized rubber or polymer (column 4, lines 5-10).

In regard to claims 5 and 6, Mochizuki discloses the tablet base material being sugar (sucrose), corn syrup (fructose and/or glucose) and glucose syrup (example 1).

In regard to claim 7, Mochizuki discloses the chewing gum-containing tablet further comprising a colorant or flavoring (column 2, lines 53-58).

In regard to claim 9, Mochizuki discloses a process for the preparation of a chewing-gum tablet, which comprises mixing a particulated gum base with a particulated tablet base material, wherein the average particle size is 44 microns (example 1) and compressing the mixture manually or mechanically to enable it to bind together and form a firm compact tablet (column 3, lines 49-57). It is inherent that if the tablet is made of compressed powder, it will crumble into a powder again when it is masticated, until enough saliva is absorbed by the particles to cause them to form a wad of chewing gum.

In regard to claim 10, Mochizuki discloses the gum base being a plasticized rubber or polymer (column 4, lines 5-10).

In regard to claims 11 and 12, Mochizuki discloses the tablet base material being sugar (sucrose), corn syrup (fructose and/or glucose) and glucose syrup (example 1).

In regard to claim 13, Mochizuki discloses the chewing gum-containing tablet further comprising a colorant or flavoring (column 2, lines 53-58).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mochizuki in view of Cherukuri. Mochizuki does not disclose the chewing gum-containing tablet comprising a pharmaceutical, medicated, nutritive or functional ingredient, a dental vehicle or a breath freshener. However, the inclusion of a dental vehicle or a breath freshener is well established in the field and Cherukuri discloses a chewing gum-containing tablet, which comprises medicaments (column 8, line 65). It therefore would have been obvious to include any of these ingredients in the invention of Mochizuki in order to increase the utility of the product.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 and 3-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK



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